

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DENNIS MULLIKIN AND MIKAELA A. DUFFY,

Plaintiff(s),

- against -

THE CITY OF NEW YORK, NYC POLICE COMMISSIONER
DERMOT SHEA AND JOHN DOES "1" THROUGH "10"
(NYPD DEPUTY COMMISSIONERS, COMMANDING
OFFICERS AND SUPERVISING OFFICERS RESPONSIBLE
FOR DIRECTING AND SUPERVISING THE NYPD'S
RESPONSE TO THE GEORGE FLYOD AND BREONNA
TAYLOR PEACEFUL PROTESTS AND THE NYPD
OFFICERS RESPONDING TO THE MAY 31, 2020 PROTEST
AT THE STRAND BOOKSTORE, WHOSE NAMES ARE
CURRENTLY UNKNOWN TO PLAINTIFF),

Defendants.
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NOTICE OF REMOVAL

Case No. 21 Civ. 9200

Law Dept. No. 2021-002241

**TO: THE UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF NEW YORK**

Defendants THE CITY OF NEW YORK and DERMOT SHEA (s/h/a NYC POLICE
COMMISSIONER DERMOT SHEA) ("defendants") by and through their attorney, Georgia M.
Pestana, Corporation Counsel of the City of New York, respectfully show this Court as follows:

1. On August 29, 2021, Plaintiff commenced this action by filing a Summons and
Complaint in the Supreme Court of the State of New York, County of New York, under Index
No. 158072/2021, naming THE CITY OF NEW YORK, DERMOT SHEA and JOHN DOES
"1" THROUGH "10"¹, as defendants therein, and setting forth the claims for relief upon which
the action is allegedly based. A copy of Plaintiff's Summons and Verified Complaint, dated
August 25, 2021, is annexed hereto as "Exhibit A."

¹ Plaintiff has not yet identified JOHN DOES "1" THROUGH "10" as named Defendants in this matter.

2. Upon information and belief, NYC POLICE COMMISSIONER DERMOT SHEA was served with a Summons and Verified Complaint in the above-entitled action.²

3. Upon information and belief, the City of New York was served with the Summons and Verified Complaint on or about October 7, 2021.³

4. The above-captioned action is a civil action of which the United States District Court has original jurisdiction in that it includes causes of action which arise under the Constitution and laws of the United States, pursuant to 28 U.S.C. § 1331. This action is therefore removable to the United States District Court without regard to the citizenship or residence of the parties.

5. Plaintiff brings this lawsuit pursuant to 42 U.S.C. § 1983, § 1985(3), § 1986, alleging, *inter alia*, federal claims false arrest, false imprisonment, malicious prosecution, excessive force, conspiracy, failure to intervene, and municipal liability, all in violation of the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution. See Exhibit A. Plaintiff also asserts state law claims of assault and battery, false arrest and malicious prosecution. Id.

6. This Notice of Removal is timely because it is being filed within thirty (30) days of receipt of the initial pleading by the City. See 28 U.S.C. § 1446(b); Fed. R. Civ. P. 6(a)(3).

7. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the state court in which the action has been pending.

² A review of New York State Courts Electronic Filing ("NYSCEF") system revealed that plaintiff has not filed an affidavit of service, indicating that service was properly effectuated upon defendant NYC POLICE COMMISSIONER DERMOT SHEA at his current command or place of business.

³ A review of New York State Courts Electronic Filing ("NYSCEF") system revealed that plaintiff has not filed an affidavit of service, indicating that service was properly effectuated upon defendant THE CITY OF NEW YORK at its current place of business.

8. Defendants are unaware of any previous application for the relief requested herein.

WHEREFORE, the defendants respectfully request that the above-captioned action be removed from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Dated: New York, New York
November 4, 2021

GEORGIA M. PESTANA
Corporation Counsel of the City of New York
Attorney for Defendants
THE CITY OF NEW YORK and DERMOT SHEA
100 Church Street
New York, New York 10007

By: 
ANDREW OWEN
Senior Counsel
(212) 356-2109

BY MAIL:
TO: KAREEM R. VESSUP, ESQ.
Attorneys for Plaintiffs
DENNIS MULLIKIN and MIKAELA A. DUFFY
89-31 161st Street, Suite 705
Jamaica, NY 11432
(718) 219-8744